

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Louisiana Public Service Commission
Investigative Response
Baton Rouge, Louisiana

August 27, 2003



Legislative Auditor

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August 20, 2003

The Honorable J. "Tom" Schedler, Chairman,
and Members of the Legislative Audit
Advisory Council

Dear Senator Schedler and Members:

This letter is in response to the Legislative Audit Advisory Council's (LAAC) request of July 30, 2003, for a report on the results of the investigative audit procedures applied to selected records of the Louisiana Public Service Commission (LPSC).

On May 22, 2002, the legislative auditor began a performance audit of the LPSC. Shortly thereafter, investigative auditors joined the performance audit and began performing procedures to determine whether an investigative audit was warranted. Upon reviewing limited documentation obtained from regulated utilities, we began applying investigative procedures for the purposes of determining:

- (1) whether regulated entities had submitted fraudulent documents supporting rates and rate adjustments to the LPSC; and
- (2) whether regulated entities had provided items of value to LPSC members and staff, which would violate state law and/or which would have an undue influence on their regulation efforts.

In applying our investigative procedures, certain information and/or allegations came to our attention warranting further study. In furtherance of our audit objectives, we requested access to certain records held by Atmos Gas and CLECO. These documents were not provided by the regulated utilities. Auditors were also denied access to e-mails stored on LPSC computers. Thereafter, the legislative auditor entered into legal action to obtain LPSC e-mails. Though the Nineteenth Judicial District Court rendered a judgment in favor of the legislative auditor, the LPSC appealed to the First Circuit Court of Appeal who granted an emergency stay and subsequently agreed to review the entire question as to whether the legislative auditor should be given access to the LPSC's e-mail. This matter remains pending.

To further our initial objectives, on February 11, 2003, the LAAC issued subpoenas to 31 utilities requiring the production of documentary evidence regarding:

- (1) entertainment expenses;
- (2) other expenses incurred on behalf of commissioners, LPSC staff, and/or their relatives;
- (3) things of value given to commissioners, LPSC staff, and/or their relatives;

- (4) sporting or other events attended by commissioners, LPSC staff, and/or their relatives;
- (5) documents of payments that were passed on to ratepayers to or from certain LPSC contractors;
- (6) documentation to support each item included in the monthly rate adjustments for April and August 2002; and
- (7) any free, discounted, or uncharged utilities for any public official or public employee.¹

On March 12, 2003, the LAAC withdrew its subpoenas and directed the legislative auditor to draft new subpoenas with a narrowed scope. On March 24, 2003, the LAAC issued a second set of subpoenas, limited to:

Any things of value related to, incurred for, for the benefit of, or on behalf of any agent(s), immediate family and/or any LPSC employee and/or the employee's immediate family and/or their agent(s) by the public utility and/or its agent(s) for calendar year 2002. The documentary evidence must include a description of the item of value, the individual or entity to which the value was provided, the date the item of value was provided, the date the item of value was provided, and the dollar value provided.

In that the second set of subpoenas did not cover our objectives relating to rate setting, we cancelled our investigative efforts, allowing our performance audit staff to pursue the issue of items of value given to LPSC members and staff.

Based upon the foregoing limitations, nothing came to our attention that should be reported to you or any law enforcement or prosecutorial agencies.

If you have any further questions or need additional explanation, please contact me.

Sincerely,



Grover C. Austin, CPA
First Assistant Legislative Auditor

GCA:DGP:db/dl

[PSC-INVESTIGATIVE RESPONSE]

¹ The specific wording of individual subpoenas varied.